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MEMORANDUM

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To: Leon County
From: Patton Boggs LLP
Date: November 26, 2003
Subject: Status Report

FY04 Appropriations

While Congress has already passed a number of appropriations bills as stand-alone bills, it appears inevitable that Congress will pass an omnibus bill combining the remaining seven appropriations bills into one piece of legislation. On November 21, to ensure that there would be sufficient time to conclude the negotiations on the omnibus bill, Congress passed a Continuing Resolution that provides funding to the government through January 31, 2004 at FY03 levels. Although Senate leadership hoped to pass the Treasury-Transportation and the Foreign Operations bills as stand-alone legislation, both bills were added to the omnibus bill. Together with these two bills, the Commerce/Justice/State, District of Columbia, VA/HUD, Labor/HHS, and Agriculture bills comprise the omnibus bill. Congressional leadership decided to use the Agriculture appropriations bill as the vehicle for the omnibus and the Conference Committee has been meeting on the bill for about a week.

The Administration indicated that it would veto the bill as originally drafted because of certain policy provisions in the bill. The two largest points of disagreement have been an attempt by Congress to block the Administration's overtime policy changes and to prevent application of the FCC's recent decisions regarding media ownership. These disagreements have now been resolved and Congress intends on moving forward with the omnibus bill.

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While the situation changes rapidly, the House is currently planning to return on December 8 for one day of votes, including a vote on the omnibus bill, and then adjourning until January 20, 2004. The Senate is leaning towards returning on December 9 to consider the omnibus bill under unanimous consent (without taking roll call votes). This presents at least two potential scenarios. The first is that the House passes the omnibus bill on December 8 and the Senate subsequently passes the bill on December 9 – leaving only the Presidential signature before the bill becomes law. The second scenario is that the Senate is unable to reach consensus on the bill and does not pass the omnibus in December. That would mean that the Senate would not take the bill up until January and the omnibus bill would probably not become law until late January.

As the appropriations process enters the "end-game" we continue to monitor activities related to the funding of Leon County's priorities, and are in regular contact with the Florida delegation offices. The two appropriations bills most relevant to the County, the Transportation-Treasury Bill (Capital Circle NW/SW) and the VA/HUD Bill (Lake Munson and Eastern Sinks), will both be included in the omnibus. This affords us the opportunity to continue communication with the Appropriations Committee staffs and encourage them to add the Leon County priorities despite the fact that the requests were not included in either the Senate or House Committee versions. If the Senate is unable to pass the bill in December this window of opportunity may last through the month of December and into the beginning of January.

TEA-21 Reauthorization

The recently released House Transportation and Infrastructure Committee's version of the surface transportation reauthorization bill -- "Transportation Equity Act: A Legacy for Users" ("TEA-LU") -- focuses on congestion, safety, freight transportation and rural and disabled access to public transportation. Of the $375 billion authorized by the bill, $298.7 billion would be allocated for highways, $69.2 billion would go to mass transit, and the rest would be dedicated to safety programs. While there are numerous differences between the House's version and the Senate and Administration's versions, the most significant difference is the funding level. The House proposes a $375 billion level – over $100 billion more then the Administration.

Earlier this year the Administration released its version of the reauthorization bill entitled the Safe, Accountable, Flexible and Efficient Transportation Equity Act of

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2003 ("SAFETEA"). In September, Congress passed a five-month extension of TEA-21 that provides funding through February 29, 2004 for TEA-21 programs at FY03 funding levels. This extension was necessary when it became apparent that Congress would be unable to reach agreement on reauthorization before TEA-21's expiration on September 30, 2003.

Earlier this month, the Senate Environment and Public Works Committee marked up its version of the bill and adopted the Administration's title for its bill -- SAFETEA. In the Senate, the Environment and Public Works Committee has jurisdiction over the highway portions of reauthorization while the Senate Banking Committee retains jurisdiction over transit and the Senate Finance Committee has jurisdiction over the revenue portions of the bill. Neither of these Committees has set a schedule for marking up the reauthorization bill.

Last week the House Transportation and Infrastructure Committee released its version of the bill -- TEA-LU. Representative Young (R-AK), Chairman of the House Transportation and Infrastructure Committee, has outlined his desired schedule, saying that TEA-LU would probably be marked up by the Transportation and Infrastructure Committee in early February, marked up by the House Ways and Means Committee (responsible for the revenue portions of the bill) at the end of February and passed by the House in mid-March.

TEA-LU authorizes $375 billion to be spent over six years (a 72 percent increase over TEA-21), however, the bill did not provide a funding mechanism for the increase in spending. The difference in funding level between TEA-LU and the Administration's proposal of $247 billion is dramatic and representative of the difficulties in passing a reauthorization bill during this Congress. Representative Young would like to pay for the bill by increasing the gas tax, an approach opposed by both the Administration and the House Republican leadership.

Even in the spring, it is likely that the political obstacles to passing a reauthorization bill will remain. TEA-LU was introduced at a $375 billion level that can probably only be funded through the use of increased user fees, but House leadership and the Administration have gone out of their way to publicly indicate that any reauthorization package will not include user fee increases. The opposition to a tax increase will likely remain until after the November 2004 election. Thus, there is a strong chance that the House leadership team will insist on a one or two-year extension of the existing TEA-21 authorization bill, to move any consideration of new user fees into 2005 after the next election cycle.

In conclusion, while there has been some movement on the reauthorization front recently, we anticipate very little to occur on the bill until early in 2004.

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We hope you found this information helpful. Please let us know if we can provide any further detail on the issues discussed in this memorandum.